

**§ 541.42 Designation of Hearing Administrator.**

(a) The Regional Director in the region where the inmate is located shall review the institution's recommendation for referral of an inmate for placement in a control unit. If the Regional Director concurs with the recommendation, the Regional Director shall forward a written request, together with the institution's referral material, to the Regional Director of the region where the control unit is located. The Regional Director of the region where the control unit is located shall designate a person in the Regional Office to review the referral material and to conduct a hearing on the appropriateness of an inmate's placement in a control unit.

(b) The Hearing Administrator shall have the following qualifications:

(1) Correctional experience, including institutional work with inmates, processing of inmate disciplinary actions, significant institutional experience in observing and evaluating inmate adjustment and disruptive behavior, and knowledge of the options available in the Bureau of Prisons for dealing with such conduct;

(2) Lack of former personal involvement in an Institution Discipline Committee action involving the particular inmate in incident(s) referred; and

(3) Familiarity with Bureau of Prisons policies and operations, including the criteria for placement of inmates in different institutions and in a control unit.

**§ 541.43 Hearing procedure.**

(a) The Hearing Administrator shall provide a hearing to an inmate recommended for placement in a control unit. The hearing ordinarily shall take place at the recommending or sending institution.

(b) The hearing shall proceed as follows.

(1) Staff shall provide an inmate with an advance written notice of the hearing and a copy of this rule at least 24 hours prior to the hearing. The notice will advise the inmate of the specific act(s) or other evidence which forms the basis for a recommendation that the inmate be transferred to a control unit, unless such evidence would likely

endanger staff or others. If an inmate is illiterate, staff shall explain the notice and this rule to the inmate and document that this explanation has occurred.

(2) The Hearing Administrator shall provide an inmate the service of a full-time staff member to represent the inmate, if the inmate so desires. The Hearing Administrator shall document in the record of the hearing an inmate's request for, or refusal of staff representation. The inmate may select a staff representative from the local institution. If the selected staff member declines or is unavailable, the inmate has the option of selecting another representative or, in the case of an absent staff member, of waiting a reasonable period (determined by the Hearing Administrator) for the staff member's return, or of proceeding without a staff representative. When an inmate is illiterate, the Warden shall provide a staff representative. The staff representative shall be available to assist the inmate and, if the inmate desires, shall contact witnesses and present favorable evidence at the hearing. The Hearing Administrator shall afford the staff representative adequate time to speak with the inmate and to interview available witnesses.

(3) The inmate has the right to be present throughout the hearing, except where institutional security or good order is jeopardized. The Hearing Administrator may conduct a hearing in the absence of the inmate when the inmate refuses to appear. The Hearing Administrator shall document an inmate's refusal to appear, or other reason for non-appearance, in the record of the hearing.

(4) The inmate is entitled to present documentary evidence and to have witnesses appear, provided that calling witnesses would not jeopardize or threaten institutional security or individual safety, and further provided that the witnesses are available at the institution where the hearing is being conducted.

(i) The evidence to be presented must be material and relevant to the issue as to whether the inmate can and would function in a general prison population without being or posing a threat to